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09/769,199	01/24/2001	Dennis A. Morgan	MS163086.1	4341

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EXAMINER

DUNCAN, MARC M

ART UNIT	PAPER NUMBER
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2184

DATE MAILED: 12/10/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/769,199

Applicant(s)

MORGAN ET AL.

Examiner

Marc M Duncan

Art Unit

2184

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-19, 21-40, 42 and 44-46 is/are rejected.
- 7) ☒ Claim(s) 8, 20, 41 and 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Double Patenting***

Applicant is advised that should claim 1 be found allowable, claim 31 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 45 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A data packet is not statutory subject matter under 35 USC 101.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 9-19, 21-40, 42, 44 and 46 are rejected under 35 U.S.C. 102(e) as being anticipated by Worley et al.

Regarding claim 1:

Worley teaches an interface component adapted to launch a software tool in col. 4 line 43.

Worley teaches a diagnostic component associated with a local host computer in a networked computer system in col. 4 lines 30-31 and line 43.

Worley teaches the diagnostic component adapted to obtain first information related to the local host computer when the software tool is launched the Abstract lines 16-21.

Worley teaches the diagnostic component adapted to selectively perform at least one test associated with the local host computer in order to obtain at least one test result according to the first information in col. 5 line 56.

Worley teaches the diagnostic component adapted to determine at least one attribute associated with the networked computer system according to at least one of the first information and the at least one test result in col. 5 lines 55-59.

Worley further teaches the software tool being adapted to selectively provide the at least one attribute to at least one of a transferable file in the local host computer and the interface component in col. 7 line 56, col. 8 line 53 and col. 8 lines 58-59.

Regarding claim 2:

Worley teaches the software adapted to selectively provide the at least one attribute to the interface component, and wherein the interface component is adapted to render the at least one attribute to a user in col. 8 lines 58-59.

Regarding claim 3:

Worley teaches the at least one attribute comprising at least one of a first data set corresponding to services associated with the local host computer, a second data set corresponding to computer information and a third data set corresponding to modems and network adapters associated with the local host computer in the Abstract lines 16-30, col. 5 lines 38-39 and col. 9 lines 59-60.

Regarding claim 4:

Worley teaches the first data set comprising information relating to at least one of a mail service, news service, Internet service and loopback in col. 9 lines 59-65.

Regarding claim 5:

Worley teaches the second data set comprising information related to an operating system in col. 5 lines 38-39.

Regarding claim 6:

Worley teaches the third data set comprising information related to at least one of a modem, a network adapter and an installed client in col. 7 lines 21-24.

Regarding claim 7:

Worley teaches the diagnostic component being adapted to perform one of querying a data store and verifying a connection in col. 5 lines 38-39 and col. 5 line 56.

Regarding claim 9:

Worley teaches a ping utility adapted to test a network by sending out a packet and waiting for a response in col. 10 line 46.

Regarding claim 10:

Worley teaches the ping utility adapted to determine whether a particular IP address is online in col. 10 line 46 (determining whether an IP address is online is an inherent function of a ping utility).

Regarding claim 11:

Worley teaches the ping utility adapted to determine an IP address from the response in col. 10 line 46 (this function is inherent).

Regarding claim 12:

Worley teaches the diagnostic component and the interface component residing on the local host computer in Fig. 4.

Regarding claim 13:

The claim is rejected as the method of using the apparatus of claim 1.

Regarding claim 14:

The claim is rejected as the method of using the apparatus of claim 2.

Regarding claim 15:

Worley teaches providing the at least one attribute to a transferable file associated with the local host computer, further comprising sending the transferable file to another computer associated with the networked computer system in the Abstract lines 9-10.

Regarding claim 16:

Worley teaches obtaining a first data set comprising information relating to at least one of a mail service, news service, Internet service and loopback in col. 9 lines 59-65.

Regarding claim 17:

Worley teaches obtaining a second data set comprising information related to an operating system in col. 5 lines 38-39.

Regarding claim 18:

Worley teaches obtaining a third data set comprising information related to at least one of a modem, a network adapter and an installed client in col. 7 lines 21-24.

Regarding claim 19:

Worley teaches determining the at least one attribute comprises one of querying a data store and verifying a connection in col. 5 lines 38-39 and col. 5 line 56.

Regarding claim 21:

Worley teaches that verifying a connection comprises sending out a packet and waiting for a response in col. 10 line 46.

Regarding claim 22:

Worley teaches that verifying a connection comprises determining an IP address from the response in col. 10 line 46 (this function is inherent).

Regarding claim 23:

Worley teaches that verifying a connection comprises determining whether a particular IP address is online in col. 10 line 46 (this function is inherent).

Regarding claim 24:

The claim is rejected as the computer program product containing instructions for performing the method of claim 13.

Regarding claim 25:

The claim is rejected as the computer program product containing instructions for performing the method of claim 14.

Regarding claim 26:

The claim is rejected as the computer program product containing instructions for performing the method of claim 15.

Regarding claim 27:

The claim is rejected as the computer program product containing instructions for performing the method of claim 16.

Regarding claim 28:

The claim is rejected as the computer program product containing instructions for performing the method of claim 17.

Regarding claim 29:

The claim is rejected as the computer program product containing instructions for performing the method of claim 18.

Regarding claim 30:

The claim is rejected as the computer program product containing instructions for performing the method of claim 19.

Regarding claim 31:

The claim is rejected as for the same reasons as claim 1.



Regarding claim 32:

Worley teaches a diagnostic component adapted to obtain first information related to the local host computer when the software tool is launched the Abstract lines 16-21.

Worley teaches the diagnostic component adapted to selectively perform at least one test associated with the local host computer in order to obtain at least one test result according to the first information in col. 5 line 56.

Worley teaches the diagnostic component adapted to determine at least one attribute associated with the networked computer system according to at least one of the first information and the at least one test result in col. 5 lines 55-59.

Worley teaches a remedial object adapted to perform at least one remedial action according to the at least one attribute in col. 3 line 19-24.

Regarding claim 33:

Worley teaches the diagnostic component being adapted to selectively provide the at least one attribute to at least one of a transferable file in the local host computer and the interface component in col. 7 line 56, col. 8 line 53 and col. 8 lines 58-59.

Regarding claim 34:

Worley teaches that the at least one remedial action comprises determining another attribute associated with the networked computer system according to the at least one attribute using the diagnostic component in col. 3 lines 20-24 and col. 4 lines 65-67.

Regarding claim 35:

Worley teaches the diagnostic component further adapted to determine another attribute associated with the networked computer system after performance of the at least one remedial action in col. 3 lines 20-24 and col. 4 lines 65-67.

Regarding claim 36:

Worley teaches an interface component adapted to render the at least one attribute to a user in col. 8 lines 58-59.

Regarding claim 37:

Worley teaches an interface component adapted to launch the diagnostic component in col. 4 line 43.

Regarding claim 38:

Worley teaches an interface component adapted to render information related to the at least one remedial action to a user in col. 8 lines 58-59.

Regarding claim 39:

Worley teaches a first component adapted to launch a diagnostic tool in col. 4 line 43.

Worley teaches a second component adapted to render attribute information related to an attribute associated with the networked computer information to a user in col. 8 lines 58-59.

Regarding claim 40:

Worley teaches the second component being graphical in col. 8 lines 58-59.

Regarding claim 42:

Worley teaches the at least one attribute comprising at least one of a first data set corresponding to services associated with the local host computer, a second data set corresponding to computer information and a third data set corresponding to modems and network adapters associated with the local host computer in the Abstract lines 16-30, col. 5 lines 38-39 and col. 9 lines 59-60.

Regarding claim 44:

Worley teaches a diagnostic object adapted to determine an attribute associated with a computer system in col. 5 lines 55-59.

Worley teaches the diagnostic object adapted to provide the attribute to at least one of a file in the computer system and an interface in col. 7 line 56, col. 8 line 53 and col. 8 lines 58-59.

Regarding claim 46:

Worley teaches a diagnostic component adapted to determine at least one attribute associated with the networked computer system in col. 5 lines 55-59.

Worley teaches a client side computer having an interface component adapted to launch the diagnostic component and to render the at least one attribute to a user in col. 4 line 43, col. 7 line 56, col. 8 line 53 and col. 8 lines 58-59.

***Allowable Subject Matter***

Claims 8, 20, 41 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Prior art was not found that explicitly teaches or fairly suggests querying the computer's registry as outlined in claims 8 and 20. Prior art was not found that explicitly teaches or fairly suggests rendering the attribute information to the user in hierarchical fashion as outlined in claims 41 and 43. These limitations are considered allowable only in combination with the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art not relied upon contains elements of the instant claims and/or represents a current state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc M Duncan whose telephone number is 703-305-4622. The examiner can normally be reached on M-T and TH-F 6:00-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on 703-305-9713. The fax phone number for the organization where this application or proceeding is assigned is 703-746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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